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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/334,256	06/16/99	RICHARDSON	S	M3653.0001/P

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EXAMINER
THOMPSON JR, F

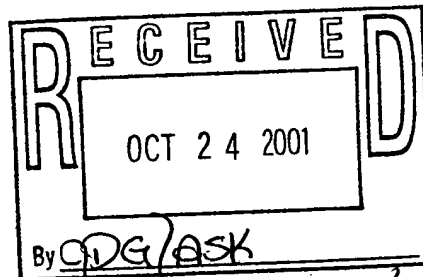| ART UNIT	PAPER NUMBER
2165	#19

DATE MAILED:
10/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary	Application No. 09/334,256	Applicant(s) RICHARDSON et al.
	Examiner Forest Thompson Jr.	Art Unit 2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _three_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _09/09/01 and 12/08/00_

2a) ☒ This action is FINAL.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-4 and 7-23_ is/are pending in the applica

    4a) Of the above, claim(s) _____ is/are withdrawn from considerä

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-4 and 7-23_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirem

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

    a)☐ All b) ☐ Some* c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    *See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1.   The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action (*See* Serial No. 09/334,256, Paper No. 5). The text of those sections of Title 35, U.S. Code not otherwise provided in a prior Office action will be included in this action where appropriate.

2.   Claims 5-6 were deleted by applicant's amendment A (see Paper #6). Claims 11-23 were added by applicant's amendment A.

3.   Applicant's amendment B (see Paper #9) was not entered.

4.   Claims 1, and 7-10 were amended by applicant's amendment C (see Paper #10). Claims 1-4 and 7-23 are pending.

5.   Claims 1-4 and 7-23 have been examined.

Drawings

6.   The drawings filed on 16 June 1999 are objected to by the Draftsperson (see the attached "Notice of Draftsperson's Patent Drawing Review," PTO-948. In order to avoid abandonment of this application, correction is required.

7.   The drawings were objected to as failing to comply with 37 CFR 1.84(p)(5) because they included reference sign(s) not mentioned in the description. Applicant's amendment overcomes the objection. Examiner withdraws the objection.

Claim Objections

8.   Claim 8 is objected to because of the following informalities: on pg. 26 line 10, applicant states "computing an risk factor." Applicant's amendment overcomes the objection. Examiner withdraws the objection.

Claim Rejections - 35 USC § 112

9.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10.   Claims 1-4, 7-8, 11-15, 19 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 applicant states: "receiving an estimated date" at line 8; "said received estimated date" at line 9; "said estimated date" at line 11; "said received estimated date" at line 13; "an accompanying received estimating date" at line 17; and "said received estimated date" at line 20. . There is insufficient antecedent basis for this limitation in the claim. The term "said estimated date" at line 11 should be modified to recite "said received estimated date" in order to have proper antecedent basis. Correction is required.

Claims 2-4, 7-8, 11-15, 19 and 21 are dependent claims depending from the rejected independent claim 1; therefore, they are rejected also.

Claim Rejections - 35 USC § 103

11.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

12.   Applicant has become his own lexicographer and defined his own terms for features of his invention. For clarity and use in this examination, examiner uses the following definitions for the indicated terms, based on their definition/discussion in the specification:

-       **tasking horizon** - a window of time over which tasks can be scheduled (pg. 11). Examiner interprets this to be synonymous with *the duration of time included in the planned time span defined by the task start and stop dates.*

-       **verb** - designed to capture the type of dialogue that a worker would use to explain why a task was or was not started and/or completed <u>as planned</u> (pg. 12), or used to classify the reasons for churn, or in other words the reason for why the task was performed as planned or not performed as planned (pg. 14).

-       **churn** - the movement of tasks in relation to the tasking horizon (pg. 8), or the difference between the planned start and stop dates and the actual start and stop dates (pg. 14)..

13.   Claims 1-4 and 7-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over

William R. Duncan, "A Guide to the Project Management Body of Knowledge," Project

management Institute, 1996 (hereafter referred to as **Duncan**).

Claim 1:   **Duncan** discloses:

-    breaking a project into multiple tasks (pg. 30-32, para. 3.3.2; pg. 59, para. 6.1);

-    activating a current tasking horizon (pg. 30-32, para. 3.3.2; pg. 170), described as target

finish date and schedule development;

-    selecting a language for at least one of said multiple task (pg. 46, para. 4.3.3.3), where

verbs and language are encompassed by lessons learned;

-    receiving an actual date for at least one of said multiple tasks (pg. 31; fig. 3-5 [6.4]; pg.

159), which is disclosed as schedule development, activity definition and actual start date;

-    receiving an estimated date for said at least one task (pg. 31; fig. 3-5 [6.3]), which is

disclosed as activity duration estimating; and

-    receiving language that corresponds to said actual date, wherein a verb describes a reason

for said actual date and for said churn (pg. 108 para 10.3.2), in analyses involving comparing

actual project results to planned or expected results.

    Duncan does not specifically disclose calculating a first negative churn if said received

estimated date is created in or moved into said current tasking horizon; calculating a first positive

churn if said estimated date is deleted or moved out of said current tasking horizon; calculating a

second positive churn if said received estimated date exists in said current tasking horizon and said received actual date is moved out of or is created outside of said current tasking horizon; nor calculating a third positive churn if said received actual date is moved out of or is created outside of said current tasking horizon and an accompanying received estimated date is not in said current tasking horizon.

However, **Duncan** discloses tools to perform variance analysis involving comparing actual project results to planned or expected results, trend analysis, earned value analysis, performance reports, change requests (pg. 30-32 para. 3.3.2-3.3.4; pg. 41-42, para. 4.1.3; pg. 107-109 para. 10.3-10.3.3; pg.110, fig. 10-3; pg. 113, para. 11.1.1). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify **Duncan** to disclose the functionality necessary to calculate a first negative churn if said received estimated date is created in or moved into said current tasking horizon; calculate a first positive churn if said estimated date is deleted or moved out of said current tasking horizon; calculate a second positive churn if said received estimated date exists in said current tasking horizon and said received actual date is moved out of or is created outside of said current tasking horizon; and calculate a third positive churn if said received actual date is moved out of or is created outside of said current tasking horizon and an accompanying received estimated date is not in said current tasking horizon, through the performance reporting mechanisms provided by the invention of **Duncan**, since they are already encompassed by **Duncan**.

Claim 2:   **Duncan** discloses classifying said received verb as employee dependent (pg. 95, para. 9.1.1.2-3).

Claim 3:   **Duncan** discloses classifying said received verb as task dependent (pg. 61-62 para. 6.1.3).

Claim 4:   **Duncan** discloses classifying said received verb as environment dependent (pg. 61-62 para. 6.1.3).

Claim 7:   **Duncan** discloses:

-     comparing said tasks of said project to previously performed tasks (pg. 113, para. 11.1.1.3);

-     extracting previously performed task completion data (pg. 113, para. 11.1.1.3); and

-     computing an expected task completion time based at least in part on said previously performed task completion data (pg. 113, para. 11.1.1.1-3).

Claim 8:   **Duncan** discloses

-     comparing said tasks of said project to previously performed tasks (pg. 113, para. 11.1.1.3);

-   . extracting a risk factor associated with said previously performed tasks (pg. 113, para. 11.1.1.3); and

- computing a risk factor based at least in part on said extracted risk factor (pg. 115-117, para. 11.2; fig. 11-2).

Claims 9 and 23:   **Duncan** discloses:

- breaking a project into multiple tasks (pg. 30-32, para. 3.3.2; pg. 59, para. 6.1);

- selecting a current tasking horizon (pg. 30-32, para. 3.3.2; pg. 170), described as target finish date and schedule development;

- selecting at least two verbs for said first task (pg. 46, para. 4.3.3.3), where verbs and language are encompassed by lessons learned;

- selecting at least two verbs for said second task (pg. 46, para. 4.3.3.3), where verbs and language are encompassed by lessons learned;

- assigning said first task to a first task assignment station (pg. 97, para. 9.1.3.1-4);

- assigning said second task to a second task assignment station (pg. 97, para. 9.1.3.1-4);

- receiving a predicted start date and a predicted completion date for said first task from said first task assignment station (pg. 31; fig. 3-5 [6.3]), which is disclosed as activity duration estimating;

- receiving a predicted start date and a predicted completion date for said second task from said second task assignment station (pg. 31; fig. 3-5 [6.3]), which is disclosed as activity duration estimating;

- receiving an actual start date and a verb for said first task (pg. 31; fig. 3-5 [6.4]; pg. 159), which is disclosed as schedule development, activity definition and actual start date; and

- receiving an actual start date and a verb for said second task (pg. 31; fig. 3-5 [6.4]; pg. 159), which is disclosed as schedule development, activity definition and actual start date.

- comparing said predicted start and stop dates with said actual start and stop dates (pg. 107-108, para. 10.3; pg. 109 fig. 10-2; pg. 110 fig. 10-3; pg. 113, para. 11.1.1);

- computing a risk factor for said first task (pg. 115-118, para. 11.2; fig. 11-1; fig. 11-2); and

- computing a risk factor for said second task (pg. 115-118, para. 11.2; fig. 11-1; fig. 11-2).

Duncan does not specifically disclose computing churn of said first task, nor computing churn for said second task. However, **Duncan** does disclose the functionality for computing churn for said tasks (pg. 107-108, para. 10.3; pg. 109 fig. 10-2; pg. 110 fig. 10-3; pg. 113, para. 11.1.1). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify **Duncan** to specifically disclose computing churn of said first task, and computing churn for said second task, because **Duncan** does disclose the necessary functionality for these computations and these specific features may enhance the desirability of the invention to potential users.

Claim 10 and 22:   **Duncan** discloses:

-       a management module for:

--   breaking a project into tasks (pg. 30-32, para. 3.3.2);

--   selecting a tasking horizon (pg. 30-32, para. 3.3.2;), through schedule

development; and

--   assigning at least two verbs for at least one of said tasks (pg. 30-32, para. 3.3.2),

through activity definition and activity sequencing;

-       a task assignment station (pg. 96, fig. 9-2) for:

--   receiving said at least one task (pg. 42, para. 4.21.3), through responsibility

assignments and project planning;

--   entering a predicted start date and stop date for said at least one task (pg. 42, para.

4.21.3), through establishing a scheduled start date; and

--   entering an actual start date and stop date (pg. 157; pg. 159; pg. 70; fig. 6-7 and 6-

8), through representation of activity/project dates on graphs and charts;

-       said management module and said assignment station are operationally connected (pg. 8-

9-10, para. 1.4-5; fig. 1-2); and

-       said management module:

--   receives predicted start and stop dates and said actual start and stop dates (pg. 31;

fig. 3-5 [6.3]; pg. 31; fig. 3-5 [6.4]; pg. 159); and

--   computes a churn (pg. 107-108, para. 10.3; pg. 109 fig. 10-2; pg. 110 fig. 10-3;

pg. 113, para. 11.1.1); and

-    --   assigns a risk factor to said task based on at least one of said verbs having a reason associated therewith used to describe said churn (pg. 61 para. 6.1.1; pg. 115-118, para. 11.2; fig. 11-1; fig. 11-2).

Duncan does not specifically disclose computing churn. However, **Duncan** does disclose the functionality for computing churn (pg. 107-108, para. 10.3; pg. 109 fig. 10-2; pg. 110 fig. 10-3; pg. 113, para. 11.1.1). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify **Duncan** to specifically disclose computing churn, because **Duncan** does disclose the necessary functionality for this computation and this specific feature may enhance the desirability of the invention to potential users.

Claim 11:   **Duncan** discloses modifying said computed risk factor based on a subsequent churn value (pg. 165), through mitigation.

Claim 12:   **Duncan** discloses said method results in a reduction of said churn (pg. 165), through mitigation.

Claim 13:   **Duncan** discloses said actual dates comprises an actual start date and an actual stop date (pg. 159).

Claim 14:   **Duncan** discloses said received estimated dates comprise an estimated start date and an estimated stop date (pg. 169-170).

Claim 15:   **Duncan** does not specifically disclose assigning a risk factor to a second task which is dependent upon a first task. **Duncan** does disclose risk is interrelated with scheduled events (pg. 30-32, para. 3.3.2). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify Duncan to use a risk factor equal to a percentage of the time between said predicted start and stop dates (or various other representations to portray task interdependencies, as may be required by a user), because this is an obvious variation that is encompassed by the Duncan invention.

Claim 16:   **Duncan** discloses said second task is dependent on said first task (pg. 30 para. 3.3.2), through the functionality of relationships of planning processes.

Claim 17:   **Duncan** discloses:

-       breaking a project into multiple tasks (pg. 30-32, para. 3.3.2; pg. 59, para. 6.1);

-       selecting a current tasking horizon (pg. 30-32, para. 3.3.2; pg. 170), described as target finish date and schedule development;

-       selecting at least two verbs for at least one of said task (pg. 46, para. 4.3.3.3), where verbs are encompassed by lessons learned;

- receiving a predicted start date and a predicted stop date for said first task for at least one

task (pg. 31; fig. 3-5 [6.3]), which is disclosed as activity duration estimating;

-- receiving an actual start date and a verb for said at least one task (pg. 31; fig. 3-5 [6.4];

pg. 159), which is disclosed as schedule development, activity definition and actual start date;

and

- receiving one of at least two verbs that corresponds to said actual start and stop dates,

wherein said verb describes at least one reason for said actual start and stop dates (pg. 31; fig. 3-5

[6.4]; pg. 159), which is disclosed as schedule development, activity definition and actual start

date;

- comparing said predicted start and stop dates with said actual start and stop dates (pg.

107-108, para. 10.3; pg. 109 fig. 10-2; pg. 110 fig. 10-3; pg. 113, para. 11.1.1);

- computing churn of at least one task (pg. 107-108, para. 10.3; pg. 109 fig. 10-2; pg. 110

fig. 10-3; pg. 113, para. 11.1.1);

- reviewing said churn in view of at least one verb and assigning a risk factor to said task

based on said review (pg. 30-32, para. 3.3.2; pg. 115-118, para. 11.2; fig. 11-1; fig. 11-2).

Duncan does not specifically disclose computing churn of at least one task. However,

Duncan does disclose the functionality for computing churn of at least one task (pg. 107-108,

para. 10.3; pg. 109 fig. 10-2; pg. 110 fig. 10-3; pg. 113, para. 11.1.1). Therefore, it would have

been obvious to one skilled in the art at the time the invention was made to modify **Duncan** to

specifically disclose computing churn of at least one task, because **Duncan** does disclose the

necessary functionality for this computation and this specific feature may enhance the desirability

of the invention to potential users.

Claim 18:   **Duncan** does not specifically disclose said risk factor is equal to a percentage of

the time between said predicted start and stop dates. **Duncan** does disclose risk is interrelated

with scheduled events (pg. 30-32, para. 3.3.2). It would have been obvious to one skilled in the

art at the time the invention was made to modify Duncan to use a risk factor equal to a

percentage of the time between said predicted start and stop dates, because this is an obvious

variation that is encompassed by the Duncan invention and may provide additional clarity for

scheduling- and risk-related activities.

Claim 19:   **Duncan** discloses said previous risk factor is task dependent (pg. 30-32, para.

3.3.2; pg. 115-118 para. 11.2; fig. 11-1; fig. 11-2).

Claim 20:   **Duncan** does not specifically disclose said apparatus classifies said churn as

positive churn or negative churn. **Duncan** does disclose the functionality encompassed by said

apparatus classifies said churn as positive churn or negative churn (pg. 30-32 para. 3.3.2; pg. 108

para. 10.3.1; pg. 115-118 para. 11.2; fig. 11-1; fig. 11-2), through the mechanisms of variance

analysis, trend analysis, and schedule variance.

Claim 21:   said apparatus is utilized in a churn monitoring program to reduce said churn (pg. 108 para. 10.3.1; pg. 115-118 para. 11.2; pg. 165; fig. 11-1; fig. 11-2), through at least the processes of variance analysis, trend analysis, earned value analysis, and mitigation.

Response to Arguments

14.   Applicant's arguments with respect to claims 1-4 and 7-23 have been considered but are moot in view of the new ground(s) of rejection.

Additionally, applicant argues (on pg. 14-15, Paper #11) that his invention is directed to a method and apparatus that can be effectively utilized for modeling multiple tasks for multiple users (pg. 14 last paragraph), and that Duncan:

-     provides little detail or guidance in actually designing and implementing a functional feedback system which can be used to decrease task inefficiency (pg.15); and

-     fails to teach or suggest an apparatus and method for proactively creating a task horizon which represents a window of time over a plurality of timeframes in which tasks are expected to be finished (pg. 15);

-     fails to teach or suggest a system that calculates anything similar to a negative churn or positive churn and that this calculation is related to the movement of dates relative to the tasking horizon (pg. 15); and

-     does not disclose a system in which a risk factor can be represented or be assigned to the task as a result of analyzing the reasons for churn (pg. 15).

Examiner disagrees. While **Duncan** does not necessarily use the same terminology as applicant, it is obvious that the invention of applicant is disclosed by the invention of **Duncan**, as portrayed in the rejection in sections 11-13 above.

Conclusion

15.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Forest Thompson whose telephone number is (703) 306-5449.

The examiner can normally be reached Monday-Friday from 7:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached at (703) 308-1344.

The fax numbers for the organization where the application or processing is assigned are as follows:

(703) 745-7238   (After Final communication)

or:

(703) 745-7239   (Official Communication)

(7030 745-7240   (For Status inquiries, draft communications)

Any inquiry of a general nature or relating to the application or processing should be directed to the receptionist whose telephone number is (703) 305-3900.

October 19, 2001 /FOT/

WYNN COGGINS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson. **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections <u>within the time period set in the attached Office communication</u>. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.

06/01/01